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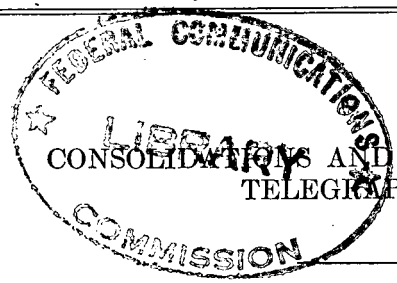

CONSOLIDATIONS AND MERGERS OF DOMESTIC TELEGRAPH CARRIERS

FEBRUARY 1, 1943.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. BULWINKLE, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 158]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 158) to amend the Communications Act of 1934, as amended, to permit consolidations and mergers of domestic telegraph carriers, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

The committee amendment strikes out all of the Senate bill and inserts in lieu thereof a substitute which appears in the reported bill in italic type.

GENERAL STATEMENT

This legislation proposes to amend the Communications Act of 1934, as amended, so as to permit domestic telegraph carriers to consolidate or merge. Such consolidations or mergers are made permissive and not mandatory, and must be approved by the Federal Communications Commission as being in the public interest before they can be effected. This affirmative grant of authority is required because of the fact that the antitrust laws now stand in the way of such consolidations and mergers.

Provisions are included for the protection of employees who may be affected by any such consolidation or merger. Other provisions are included to assure just and equitable distribution of traffic among foreign and international telegraph carriers, to restrict alien ownership and control, and appropriately to safeguard the public interest.

The bill also proposes to amend section 214 of the Communications Act of 1934, as amended, relating to the obtaining of certificates of public convenience and necessity by telegraph and telephone carriers,

in connection with construction and extension of lines and discontinuance of service.

Existing law is proposed to be amended so as to provide that no telegraph carrier shall be required, by reason of any provision of the Post Roads Act of July 24, 1866, as amended, to transmit Government telegrams at rates less than those applicable to other telegrams in the same classes.

The provisions of the bill are explained in greater detail hereinafter in this report.

The bill as passed by the Senate and the committee substitute are substantially similar, in general, but there are a number of differences, the more important of which are as follows:

1. The House substitute does not require, in the case of a consolidation or merger of domestic telegraph carriers, the divestment of the international telegraph operations of such domestic carriers, as did the Senate bill.

2. The provisions of the House substitute relating to the protection of interests of employees are different from those of the Senate bill.

The Senate bill guaranteed employment and pay for 5 years after the date of approval of the consolidation or merger to employees whose employment began on or before March 1, 1941, and provided for severance pay in the case of employees whose employment began after March 1, 1941. The House substitute makes no distinction with respect to employment before or after any specified date, and guarantees that no employee shall during a maximum period of 4 years be placed in a worse position with respect to his compensation or character of employment by reason of the consolidation or merger, except that this protection is not guaranteed for a greater period than the period of his employment prior to the date of approval by the Commission of the consolidation or merger.

The Senate bill contained a provision granting a preferential employment status, for 5 years, in the case of employees of any carrier which is a party to any consolidation or merger. The House substitute reduces this period to 4 years and confines this protection to employees who are discharged as a result of the consolidation or merger.

Both the Senate bill and the House substitute provide for certain protection to employees who are transferred from one community to another, but the House substitute omits the provision for payment of 2 months' extra compensation and specifically provides for payment of the cost of moving household goods and personal effects.

The Senate bill provided that no consolidation or merger should result in the impairment of any pension right, or health, disability, or death insurance, or any other similar benefit. In the House substitute this provision is modified so that, generally speaking, the rights and benefits which the consolidated carrier must accord, except accrued rights and benefits, will be those formerly extended to the greatest number of the employees involved in the consolidation or merger. The House provision is explained in greater detail hereinafter in this report.

3. The Senate bill amended section 214 of the Communications Act of 1934 so as to prohibit, without Commission approval, the abandonment of "a line, plant, office, or other physical facility." The House bill substitutes for such abandonment provision a prohibition against the discontinuance, without Commission approval, of service to a

community, or to part of a community. The House substitute also defines the term "line" and adds a proviso specifying certain situations in which a certificate of convenience and necessity will not have to be obtained from the Commission.

4. Section 7 of the Senate bill contained a "separability provision," to apply in case any provision of "this act or the application thereof to any person or circumstance is held invalid." Since the Communications Act of 1934 itself contains a separability provision applicable to all the provisions of that act, there is no need for a new separability provision with respect to the amendments here proposed to that act, which will become a part thereof. Section 7 of the Senate bill has therefore been omitted from the committee substitute as being unnecessary.

Factual Background and Need for Legislation

During the entire period of their existence companies engaged in telegraph business have competed strenuously among themselves and with other forms of communication, such as long-distance telephony and air mail, for the privilege of meeting the rapid communication demands of the Nation.

The Western Union Telegraph Co., the Postal Telegraph & Cable System, and the Bell Telephone System supply most of the public telegraph service in the domestic field. The Bell Telephone System furnishes a large and important amount of telegraph service, the telegraph service furnished by it consisting mostly of private lines leased for telegraph service and teletypewriter exchange (TWX) service, as distinguished from public message service.

Both Western Union and Postal have suffered seriously from the competition within the industry and from forms of communication other than telegraph. The Postal Telegraph & Cable System has particularly felt the effects of such competition, and its financial position is most precarious. Already the Government, through the Reconstruction Finance Corporation, has advanced around $9,000,000 to Postal to keep it going. Postal's current monthly loss is around $400,000. The Nation cannot afford to lose the telegraph service capacity represented by the facilities of that system. The existence of strong competitive modes of communication outside the telegraph industry means, moreover, that merger of the domestic telegraph carriers will not result in a monopoly in the domestic communications field. If such a merger occurs there will still remain severe and effective competition between the merged telegraph company and the telephone and the air mail.

The absolute necessity of meeting urgent military requirements for essential communications facilities is making increasingly difficult the supplying of critical materials to competing carriers. The long-time prospect is one of need for maintenance of a comprehensive, rapid, and efficient service through extensive installations of up-to-date high-speed equipment. Moreover, the general economic situation of telegraph-industry employees, aggravated by a feeling of insecurity as to their employment in the industry, is not conducive to efficient wartime operations, especially when manpower demands from outside the industry are so intense. The need for a sound and stable unified domestic telegraph company is plain.

History of Proposed Telegraph Merger Legislation

Before the Communications Act of 1934 was enacted, the House Interstate and Foreign Commerce Committee, under authority of House Resolutions 59 and 572, Seventy-second Congress, made a comprehensive investigation of communications facilities. The data were assembled in House Report 1273, Seventy-third Congress. This study, which was conducted under the direction of Dr. Walter M. W. Splawn, as special counsel, considered, among other things, the tendency toward and the question of advisability of mergers in the communications field. The so-called Splawn report supplemented a special interdepartmental report on communications, a study made following suggestions by President Roosevelt in the summer of 1933 to the then Secretary of Commerce Roper.

Section 4 (k) of the Communications Act of 1934 directed the Federal Communications Commission to "make a special report not later than February 1, 1935, recommending such amendments to this act as it deems desirable in the public interest." On January 21, 1935, the Commission transmitted to the Congress certain recommendations for proposed amendments to the Communications Act of 1934. Chief of these proposals was a new section 222 to provide for the permissive consolidation of telegraph companies. Congress took no formal action on this recommendation.

On March 8, 1939, the chairman of the Senate Committee on Interstate Commerce introduced Senate Resolution 95, which proposed a study of the telegraph industry. Hearings were held in May 1939 by a subcommittee of the Senate Committee on Interstate Commerce to determine whether the investigation proposed by Senate Resolution 95 should be recommended to the Senate. On June 1, 1939, in Senate Report 529 of the Seventy-sixth Congress, the committee recommended that Senate Resolution 95 be passed by the Senate. On June 19, 1939, the Senate adopted Senate Resolution 95. The authority given by that resolution was subsequently extended by Senate Resolution 268 of the Seventy-sixth Congress.

In response to a request from the Senate Committee on Interstate Commerce, the Federal Communications Commission submitted, on December 23, 1939, a report on the domestic telegraph industry with a recommendation that Congress enact legislation removing the present prohibition against merger of telegraph companies. Subsequently, on February 21, 1940, the Commission submitted a report on the international telegraph industry, with a recommendation that legislation be enacted to permit a consolidation of international radio telegraph and cable carriers into a single unified system. These two reports were printed as part of the appendix to the hearings subsequently held before the subcommittee of the Senate Committee on Interstate Commerce pursuant to Senate Resolution 95 (extended by Senate Resolution 268). These hearings were held in May 1941. A great deal of testimony was received and a comprehensive compilation of factual data with respect to the telegraph industry and its problems was assembled.

On October 28, 1941, the Senate Committee on Interstate Commerce submitted its formal report (S. Rept. 769, 77th Cong., 1st sess.) to the Senate. In this report, entitled "Study of the Telegraph Industry," the committee summarized briefly the background situa-

tion in the industry and the problems facing the industry, the employees in the industry, the Government, and the general public. The committee recommended that the Congress enact legislation making possible the voluntary and permissive mergers or consolidations of telegraph operations with the restriction that the domestic carriers should not be permitted to merge with international carriers. Thereafter, members of the subcommittee of the Senate Committee on Interstate Commerce held a series of conferences with representatives of various carriers, labor organizations, and Government agencies.

On April 9, 1942, Senators McFarland and White, members of the subcommittee, jointly introduced S. 2445. Formal public hearings were held on this bill in April and May 1942. On June 16, 1942, the Senate Committee on Interstate Commerce, in Report No. 1490, Seventy-seventh Congress, second session, reported S. 2598 in lieu of S. 2445, with the recommendation that it be passed. On June 22, 1942, the Senate passed S. 2598.

S. 2598 was thereupon referred to the Committee on Interstate and Foreign Commerce of the House. On July 21, 22, and 23, 1942, a subcommittee of the Committee on Interstate and Foreign Commerce of the House held formal public hearings on S. 2598. After lengthy consideration the subcommittee made their report in the form of a subcommittee print dated November 24, 1942, suggesting a proposed substitute for S. 2598 as passed by the Senate. After consideration the full committee unanimously reported to the House a substitute for S. 2598 as it passed the Senate.

The Seventy-seventh Congress expired without action having been taken by the House on S. 2598, and the bill expired with the Congress.

On January 7, 1943, S. 158 (the bill for which a substitute is here being reported to the House) was introduced. On January 25, 1943, it passed the Senate, and was duly referred to this committee. This bill, as passed by the Senate, is almost identical with S. 2598 as passed by the Senate in the Seventy-seventh Congress.

Explanation of the Committee Substitute by Sections and Subsections

CONSOLIDATIONS AND MERGERS OF TELEGRAPH COMPANIES

The first section of the committee substitute amends the Communications Act of 1934, as amended, by adding at the end of title II a new section 222, which contains subsections (a) to (g), inclusive, as follows:

Subsection (a)

This subsection contains definitions of various terms used in the proposed section 222.

A number of changes have been made in the definitions contained in the bill as passed by the Senate, but most of these changes have been made with a view to clarification. A few new definitions have been added.

The definition of "domestic telegraph operations" in the bill as passed by the Senate contained a proviso as follows:

Provided, That nothing in this section shall prevent international telegraph carriers from accepting and delivering international telegraph messages in the

cities which constitute gateways approved by the Commission as points of entrance into or exit from the continental United States and the incidental transmission or reception of the same over its own or leased lines or circuits within the continental United States.

Since the committee substitute contains no provisions requiring divestment of telegraph operations of any kind, and contains no provisions that would prevent international companies from carrying on the operations referred to in the above proviso, the proviso has been omitted as unnecessary.

The definition of the term "domestic telegraph carrier," as contained in the committee substitute, differs from the definition in the Senate bill in that the words "from record communications" have been omitted. With these words included the definition probably would have been broad enough to cover a telephone company which in addition to its telephone business carried on telegraph operations. In view of the provisions of subsection (g) of the new proposed section 222, providing that "the authority conferred by this section shall be exclusive and plenary," the result might have been to raise a question as to whether section 221 of the Communications Act, which now covers consolidations and mergers of telephone companies, would continue to apply in the case of a consolidation or merger of telephone companies involving a telephone company of the character referred to above. It is believed that this amendment to the definition of "domestic telegraph carrier" will remove this doubt, and make sure that consolidations and mergers of telephone carriers will continue to be governed by such section 221.

In the interest of uniformity, the same modification as that referred to above has been made in the definition of "international telegraph carrier."

It is believed that the words "from record communications" were included originally in the definition of "domestic telegraph carrier" so that the new section 222 would authorize a consolidated domestic telegraph carrier, with Commission approval, to acquire the telegraph operations of a telephone company which was engaged in telegraph operations. Since this authority is specifically granted in paragraph (1) of subsection (b), the continued inclusion of these words is not necessary for this purpose.

Subsection (b)

Paragraph (1) of this subsection provides that it shall be lawful, upon application to and approval by the Commission, for any two or more domestic telegraph carriers to effect a consolidation or merger. As a part of any such consolidation or merger or thereafter, with the approval of the Commission, any domestic telegraph carrier is authorized to acquire all or any part of the domestic telegraph properties, facilities, or operations of any carrier which is not primarily a telegraph carrier. This latter provision makes it clear that any consolidated domestic telegraph carrier could acquire any of the domestic telegraph properties, facilities, or operations of the Bell Telephone System.

It is intended, and provided in such paragraph (1), that consolidations and mergers shall not be authorized which bring both domestic telegraph carriers and international telegraph carriers together into one consolidated or merged company; but under paragraph (2) any consolidated domestic telegraph carrier is authorized, with the

approval of the Commission, to acquire all or any part of the domestic telegraph properties, facilities, or operations of any international telegraph carrier.

SUBSECTION (c)

This subsection requires that in the case of any proposed consolidation or merger, whether under paragraph (1) or (2) of subsection (b), the telegraph carrier or carriers involved shall submit an application to the Commission, and provides that the Commission shall give appropriate notice to interested parties and shall hold a public hearing with respect to the matter. It provides that if after such public hearing the Commission finds that the proposal is authorized by subsection (b), conforms to the other provisions of section 222, and is in the public interest, the Commission shall enter an order approving and authorizing the proposed transaction upon such terms and conditions, and with such modifications as the Commission finds to be just and reasonable. It further provides that any law or laws which would otherwise make the proposed transaction unlawful shall not apply with respect thereto.

SUBSECTION (d)

This subsection provides that no such consolidation or merger shall be approved by the Commission if as a result thereof more than one-fifth of the capital stock of any carrier which is subject to the jurisdiction of the Commission will be owned, controlled, or voted (1) by any alien or the representative of any alien, (2) by any foreign government or the representative thereof, (3) by any corporation organized under the laws of a foreign government, or (4) by any corporation of which any officer or director is an alien, or of which more than one-fifth of the capital stock is owned, controlled, or voted by any alien or the representative of any alien, by any foreign government or the representative thereof, or by any corporation organized under the laws of a foreign government.

SUBSECTION (e)

Paragraph (1) of this subsection requires that in case of any consolidation or merger of domestic telegraph carriers the consolidated domestic telegraph carrier shall, subject to the provisions of paragraph (2) of this subsection, distribute among international telegraph carriers, telegraph traffic by wire or radio destined to points outside the continental United States and divide the charges for such traffic, in accordance with a just, reasonable, and equitable formula in the public interest. If the carriers themselves do not agree upon a formula which the Commission approves, the Commission is to prescribe a formula which will be just, reasonable, equitable, and in the public interest and will be, so far as is consistent with the public interest, in accordance with the existing contractual rights of the carriers.

Paragraph (2) contains provisions similar to those in paragraph (1), relating to the establishment of a formula for the distribution by any consolidated domestic telegraph carrier to other telegraph carriers of traffic destined to points in Canada, Mexico, or Newfoundland, and for the division of the charges therefor.

Paragraph (3) provides that whenever the Commission, upon a complaint or upon its own initiative, and after full hearing, finds that any such distribution of traffic is or will be unjust, unreasonable, or inequitable or not in the public interest, the Commission shall by order prescribe the distribution of such traffic, or the division of charges therefor, which will be just, reasonable, equitable, and in the public interest, and will be, so far as is consistent with the public interest, in accordance with the existing contractual rights of the carriers.

Paragraph (4) provides that for the purposes of subsection (e), relating to traffic distribution, the international telegraph operations of any domestic telegraph carrier shall be considered to be the operations of an independent international telegraph carrier, and the domestic telegraph operations of any international telegraph carrier shall be considered to be the operations of an independent domestic telegraph carrier.

SUBSECTION (f)

Paragraph (1) of this subsection requires that as a condition of its approval of any consolidation or merger the Commission shall require a fair and equitable arrangement, consistent with the other provisions of the subsection, to protect the interest of the employees of any carrier which is a party to the consolidation or merger. The Commission is required to include, in its order of approval, terms and conditions providing that during the period of 4 years from the date of such approval, such consolidation or merger will not result in such employees being in a worse position with respect to their compensation or character of employment. This protection, however, does not continue for a longer period, following the date of approval of the consolidation or merger, than the period during which the employee was in the employ of any such carrier or carriers prior to such date of approval. This will require not only that the consolidated company retain in employment for the period specified the employees affected by the consolidation or merger, but will insure that they will not be put in a worse position by reason of the consolidation or merger with respect to their compensation or character of employment. The compensation with respect to which this protection is extended does not include overtime not guaranteed under collective bargaining agreements. This limitation of the obligation imposed on the consolidated carrier was included because of the extraordinary amount of overtime employment under present emergency conditions.

Paragraph (2) grants, for a period of 4 years after the date of approval of any consolidation or merger, a preferential hiring and employment status to any employee of any carrier which is a party to such consolidation or merger, who was such an employee on such date of approval, and who is discharged as a result of such consolidation or merger. This provision will not, of course, have any application to those employees whom the consolidated carrier must, by reason of paragraph (1), retain in its employ for the full period of 4 years after the date of approval of the consolidation or merger, but it will have application to those employees whose period of employment prior to such date of approval was less than 4 years.

Paragraph (3) provides that if an employee is transferred from one community to another as a result of any consolidation or merger,

the consolidated carrier shall pay, in addition to the employee's regular compensation, the actual traveling expenses of the employee and his family, including the cost of packing, crating, drayage, and transportation of household goods and personal effects.

Paragraph (4) is intended to give protection to employees affected by any consolidation or merger, with respect to pension rights, and health, disability, or death insurance benefits. The employees of the various companies which may be involved in a consolidation or merger have been covered by pension and benefit arrangements of their respective companies, and such arrangements are not uniform. The bill provides that in the case of a consolidation or merger the pension or benefit arrangements which shall apply to the employees affected by the consolidation or merger shall be those which, prior to the consolidation or merger, applied to the greatest number of the employees who are affected by the consolidation or merger. It is provided, however, that in the case of accrued rights or benefits, such as those in the case where an employee has exercised his right of retirement prior to the consolidation or merger, such rights or benefits shall be accorded in conformity with the agreement or plan under which the rights or benefits accrued.

For example, if carrier A has 10,000 employees covered by a pension plan and affected by the consolidation or merger, and carrier B has 20,000 employees covered by a different plan and affected by the consolidation or merger, when such carriers consolidate or merge the carrier resulting from the consolidation or merger will be required to continue in effect, as to all the employees, former employees, and beneficiaries and representatives of such employees and former employees, of either carrier A or B, the provisions of the plan of carrier B. This would be subject to the qualification, however, that any employee of carrier A who had exercised his right to retire prior to the consolidation or merger would continue to receive his pension in accordance with the plan of carrier A.

Paragraph (5) grants to an employee, who subsequent to August 27, 1940, left the employ of any carrier which is a party to a consolidation or merger, to enter the military or naval forces of the United States, protection of his status as such an employee during his period of military or naval service, and provides that he shall be entitled to be employed by the consolidated carrier after the termination of his military or naval service. Application for such employment must be made, however, within 40 days from the time he leaves his military or naval service. Special provisions are included as to such employees who become disabled.

Paragraph (6) provides that no employee of a carrier which is a party to a consolidation or merger shall, without his consent, have his compensation reduced, or be discharged or furloughed, in contemplation of such consolidation or merger, during the 6 months' period immediately preceding the date of approval of the consolidation or merger.

Paragraph (7) provides that nothing in subsection (g) shall be construed to prevent the discharge of any employee for insubordination, incompetency, or any other similar cause.

Paragraph (8) protects employees involved in any consolidation or merger in the rights, with respect to their hours of employment, provided by any collective bargaining agreement in force and effect

on date of approval of any consolidation or merger until such agreement is terminated, executed, or superseded. This paragraph also reserves to employees, and their duly authorized representatives, the right to enter into any agreement not prohibited by law pertaining to the protection of employees, notwithstanding any other provision of the act.

Paragraph (9) provides that for purposes of enforcement or protection of rights, privileges, and immunities granted or guaranteed under the subsection, employees shall be entitled to the same remedies as are provided by the National Labor Relations Act; and the National Labor Relations Board and the courts of the United States are given jurisdiction to enforce and protect such rights, privileges, and immunities in the same manner as in the case of enforcement of the provisions of the National Labor Relations Act.

Paragraph (10), limits the application of subsection (g) to employees whose compensation is at the rate of $5,000 per annum or less.

Subsection (g)

This subsection provides that the authority conferred by section 222 shall be exclusive and plenary, and that any carrier participating in any transaction approved by the Commission thereunder shall have full power to carry such transaction into effect without securing approval otherwise than as specified in such section.

Amendments to Section 214

Section 2 of the committee substitute amends section 214 (a) of the Communications Act of 1934, as amended. That subsection, as now in force, requires the obtaining of certificates of public convenience and necessity from the Commission in the case of construction of new lines, extensions of lines, or the acquisition or operation of lines or extensions. The amendments made by the committee substitute are primarily for the purpose of imposing the additional requirement that a certificate of convenience and necessity must be obtained for the discontinuance of service to a community or to part of a community. It is believed that the term "community" is broad enough to prevent, without Commission approval, the discontinuance of service to a military establishment or a war production plant.

There is also included a definition of the term "line."

A proviso, as follows, is included:

Provided, however, That nothing in this section shall be construed to require a certificate or other authorization from the Commission for any installation, replacement, or other changes in plant, operation, or equipment, other than new construction, which will not impair the adequacy or quality of service provided.

Subsection (a), as now in force, contains a proviso stating that—

no such certificate shall be required under this section for the construction, acquisition, operation, or extension of (1) a line within a single State unless said line constitutes part of an interstate line; (2) local, branch, or terminal lines not exceeding ten miles in length; or (3) any line acquired under section 221 of this Act.

The committee substitute amends this provision by omitting the words "or extension" in order, first, to make it clear that carriers are required to get a certificate for the further extension of a line which has been acquired under section 221 (or after this legislation is enacted, under section 222); second, to preclude any contention

that the provision as now in force might permit the extension across a State line, without Commission approval, of a line previously within a single State and not constituting part of an interstate line; and, third, to preclude any contention that the provision as now in force might permit the extension, without Commission approval, of a local, branch, or terminal line not exceeding 10 miles in length, when the result of the extension would be a line exceeding 10 miles in length. This change in present law deprives the carriers of no immunity from the certificate requirements which they now have, because the words "construction, acquisition, or operation" in the proviso clearly apply to the construction, acquisition, or operation of an extension of a line.

Sections 3 and 4 amend subsections (b) and (c) of such section 214 so as to provide for giving notice to the Secretary of War and the Secretary of the Navy in case of an application for a certificate, under section 214; and to make such subsections conform to the changes made in subsection (a).

Section 5 amends subsection (d) of such section 214 to make it clear that the Commission may, after full opportunity for hearing, and upon findings that such is reasonably required in the interest of public convenience and necessity, and that the expense involved therein will not impair the ability of the carrier to perform its duty to the public, authorize or require by order any telegraph or telephone carrier to provide itself with adequate facilities for the expeditious and efficient performance of its service as a common carrier, to extend its line, or to establish a public office.

Government Telegrams

Section 6 amends section 5266 of the Revised Statutes so as to remove the present authority of the Federal Communications Commission under the Post Roads Act of July 24, 1866, as amended, to establish rates for Government telegrams, and provides that no telegraph company shall, by reason of any benefit received under any provision of such act, as amended, be required to transmit such telegrams at rates less than those applicable to other telegrams of the same class.

Changes in Existing Law

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill as passed by the Senate are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

Communications Act of 1934

EXTENSION OF LINES

SEC. 214. (a) No carrier shall undertake the construction of a new line or of an extension of any line, or shall acquire or operate any line, or extension thereof, or shall engage in transmission over or by means of such additional or extended line, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line: *Provided*, That no such certificate shall be required under this section for the construction, acquisition, operation, or extension of (1) a line within a single State unless [said] *such* line constitutes part of an inter-

state line, (2) local, branch, or terminal lines not exceeding ten miles in length, or (3) any [lines] *line* acquired under [section 221] *sections 221 and 222* of this Act: *Provided further*, That the Commission may, upon appropriate request being made, authorize temporary or emergency service, or the supplementing of existing facilities, without regard to the provisions of this section. *No carrier shall abandon a line, plant, office, or other physical facility, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require such abandonment.*

(b) Upon receipt of an application for any such [certificate] *certificate*, the Commission shall cause notice thereof to be given [to and a copy filed with] *to, and shall cause a copy of such application to be filed with, the Secretary of War, the Secretary of the Navy, and* the Governor of each State in which such additional or extended line is proposed to be [constructed or operated, with the right to be heard as provided with respect to the hearing of complaints:] *constructed, operated, or abandoned, with the right to those notified to be heard;* and the Commission may require such published notice as it shall determine.

(c) The Commission shall have power to issue such certificate as prayed for, or to refuse to issue it, or to issue it for a portion or portions of a line, or extension thereof, described in the application, or for the partial exercise only of such right or privilege, and may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require. After issuance of such certificate, and not before, the carrier may, without securing approval other than such certificate, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction, acquisition, operation, [or extention] *extension, or abandonment* covered thereby. Any construction, acquisition, operation, [or extension] *extension, or abandonment* contrary to the provisions of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, the Commission, the State commission, any State affected, or any party in interest.

(d) The Commission may, after full opportunity for hearing, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carrier, party to such proceeding, to provide itself with adequate facilities for [performing] *the expeditious and efficient performance of* its service as a common carrier and to extend its line *or to establish a public office*; but no such authorization or order shall be made unless the Commission finds, *as to such provision of facilities, as to such establishment of public offices, or* as to such extension, that it is reasonably required in the interest of public convenience and necessity, or as to such extension or facilities that the expense involved therein will not impair the ability of the carrier to perform its duty to the public. Any carrier which refuses or neglects to comply with any order of the Commission made in pursuance of this paragraph shall forfeit to the United States $100 for each day during which such refusal or neglect continues.

REVISED STATUTES

SEC. 5266. Telegrams between the several departments of the Government and their officers and agents, *relating exclusively to the public business*, in their transmission over the lines of any telegraph company to which has been given the right-of-way, timber, or station lands from the public domain shall have priority over all other [business, at such rates, as the Federal Communications Commission shall annually fix.] *business.* [And no] *No* part of any appropriation for the several departments of the Government shall be paid to any company which neglects or refuses to transmit such telegrams in accordance with the provisions of this section. *No telegraph company shall, by reason of any benefit received under any provision of the Post Roads Act of July 24, 1866, as amended, be required to transmit such telegrams at rates less than those applicable to other telegrams in the same classes.*

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